

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MARTINEZ AYTCH,

Plaintiff,

v.

JACKIE CRAWFORD, et al.,

Defendants.

CV-N-04-0140-LRH (VPC)

ORDER

On January 27, 2005, this Court, at the request of plaintiff Martinez Aytch, entered default against defendant Robert Hildreth for failing to file a responsive pleading. The Court has recently received a letter from Mr. Aytch inquiring as to when a hearing will be scheduled to determine an appropriate damage award (Docket No. 60). The Court issues this order in response to Mr. Aytch.

Upon the entry of default, the factual allegations of the complaint, with the exception of damages, are taken as true. *Geddes v. United Financial Group*, 559 F.2d 557, 560 (9th Cir 1977) (citing *Pope v. United States*, 323 U.S. 1 (1944)). However, an entry of default does not automatically establish that the defaulting party is liable for damages. *See Danning v. Lavine*, 572 F.2d 1386, 1388 (9th Cir. 1978). The factual allegations of the complaint must be sufficient to support a judgment against the defaulting party. *Id.*

In reviewing the factual allegations contained in Mr. Aytch's complaint, it is not clear to the Court that the complaint sufficiently establishes the liability of defendant Hildreth. Specifically, it

1 appears that Mr. Aytch is claiming that Mr. Hildreth violated his due process rights. However, the
2 Court has previously dismissed Mr. Aytch's due process claims against other defendants on the
3 ground that it was barred by res judicata. Therefore, the Court will provide Mr. Aytch the
4 opportunity to file points and authorities detailing his cause of action against Mr. Hildreth and how
5 his factual allegations, taken as true, establish the liability of Mr. Hildreth. Mr. Aytch should also
6 discuss the issue of whether his due process claim is barred by res judicata.

7 IT IS THEREFORE ORDERED that Mr. Aytch shall have thirty (30) days to file points and
8 authorities detailing his cause of action against Mr. Hildreth and the specific facts alleged that
9 support a finding of liability. The issue of damages will be addressed after a showing of liability
10 has been made.

11 IT IS SO ORDERED.

12 DATED this 19th day of December, 2005.

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16 LARRY R. HICKS
17 UNITED STATES DISTRICT JUDGE
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